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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 30.11.2006.

State of Haryana and others .... Petitioners.

vs

Dinesh Choudhary .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Parduman Yadav, Deputy Advocate General, Haryana, for the petitioners.

Kiran Anand Lall, J.

In a suit for permanent injunction, the trial court restrained the petitioners (defendants), as an interim measure, from shifting and also from interfering into the smooth running of the liquor-vend of the respondent, L-2 (retailer), situated at Sunaria Chowk, Rohtak, till the final decision. The order was affirmed by the appellate court also and the appeal was dismissed. Both the orders have been assailed by the petitioners, in this petition, filed under Article 227 of the Constitution of India.

It is the admitted case of parties that the respondent was allotted a L-2, retail outlet, for sale of liquor, in the area from Sunaria Chowk upto the municipal limit of Sunaria Road, Rohtak, on acceptance of his highest bid of Rs.25 lacs, in the auction held on 17.3.2006. He was to deposit this amount by 31.3.2007, in instalments. He deposited Rs.10 lacs, as the first instalment, and started running the liquor vend. However, on 26.5.2006, because of public resentment, the petitioners directed him to shift his L-2 retail outlet from Sunaria Chowk to another area, in front of Mohan Spinning Mill, Rohtak. It is this action of the petitioners which was

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questioned by him in the civil suit.

Both the courts below granted the relief of temporary injunction to the respondent, considering the facts that he had applied for grant of license, for sale of liquor, at a retail outlet, in the specified area of Sunaria Chowk, Rohtak, and on acceptance of his highest bid, he had not only deposited the first instalment of Rs.10 lacs but had also started running the liquor-vend. Therefore, the courts found that he could not have been directed to shift his vend to another area, without being afforded an opportunity of hearing. This reasoning, which has weighed with the courts, is based on the principles of natural justice. No doubt, as per condition no.32 of the Excise Policy for the year 2006-07, read with Rule 36 (4) of the Haryana Restaurant (Consumption of Liquor) Amendment Rules, 2006, a licensee can be asked to shift his liquor vend, in given situations, but for doing so, the principles of natural justice, could not be given a go-bye, by directing the shifting of liquor vend from the present place which is concededly a prime location, to a lesser known place, and that, too, without giving notice or affording an opportunity of hearing to him. Another material fact to be noted is that, as mentioned in para no.6 of the order of the trial court (and not disputed by the petitioners), the petitioners have given license to another vend, for Rs.10 lacs only, in the same area where they are wanting the respondent to shift his liquor vend but they want to charge Rs.25 lacs from the latter. The respondent had made an offer before the trial court that he was ready to shift his liquor vend to the proposed place but he, too, should be charged Rs.10 lacs only, but the petitioners did not accept the offer. Another fact which weighed with the trial court while granting the injunction, was, an admission made by the

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petitioners that, it is not that, at the disputed place, liquor vend has been opened by the respondent, for the first time, such a vend was, earlier also, being run there, for the last five years, by previous licensees.

In view of the above position, the respondent clearly has a prima facie case in his favour and balance of convenience also, of course, lies in maintaining the status quo. The courts below, therefore, committed no wrong in granting the relief of temporary injunction to him. The petition, accordingly, deserves to be dismissed in limine, and it is so ordered.

30.11.2006. (Kiran Anand Lall)
vs. Judge.